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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,333	09/17/2003	Guillermo C. Bazan	7035092001	8380

7590 05/12/2005

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EXAMINER
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ASINOVSKY, OLGA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/666,333

**Applicant(s)**

BAZAN ET AL.

**Examiner**

Olga Asinovsky

**Art Unit**

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 17-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/19 and 1/21/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

In light of the election of Group I, claims 1-16 and 42, the case is transferred to other Art Unit 1711. The new examiner is Olga Asinovsky.

### ***Response to Arguments***

1. Applicant's election with traverse of Group I, claims 1-16 and 42 in the reply filed on March 14, 2005 is acknowledged. The traversal is on the ground(s) that claims 17-19, Group II, should be rejoined with Group I, because claims 17-19 disclose an aromatic monomeric unit which is readable as a linker in a polymer composition of Group I. This is not found persuasive because the independent claim 17 requires a plurality of structurally different conjugated cationic flexible polymers, which is not required in the polymer composition in claim 1. Also, a linker monomeric unit in claim 1 can be any monomeric segment.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snow et al U.S. Patent 6,350,431.

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Snow discloses a polymer compound of the formula I at column 2, line 40 having organic linking group L connecting at least one PAO (polyalkylene oxide) to at least one chromophore Chr, column 2 lines 37-66. The polyalkylene oxide can have a cationic group(s) such as N and/or S, column 7, lines 45-48. The chromophore-containing compounds contain reactive functional groups, column 15, lines 20-66. Also, chromophores can comprise aromatic rings that can be functionalized, column 15, lines 57-61. The functionalized PAO and chromophores are readable in applicants' claims for being polymeric chains having cationic groups. The linking group L is a monomeric unit having reactive terminal group(s), column 3, line 28 through column 6, column 48, lines 26-67. The polymer having the structure in the present claim 42 would be readable in Snow's invention because the definitions of each segment in the formula in claim 42 can be selected in the broad range of the functional groups for linking monomeric units and a polyalkylene oxide moiety having a cationic group. The compounds can be in the form of a branched polymer, such as a dendrimer polymer, column 3, lines 15-16.

Snow does not disclose the angled linker that form an angle of less than about 155 by adjusting two polymeric units. An angled linker is not specified in the present claims. It would have been obvious to one of ordinary skill in the art to consider that PAO and Chr polymer moieties can be attached to the linking monomeric unit by any angle because the resulting polymer compound can be in the form of a branched polymer such as a dendrimer polymer, column 3, lines 15-20.

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References have been considered.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is 571-272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OA  
May 06, 2005

Olga Asinovsky  
Examiner  
Art Unit 1711

  
James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700